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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,387	05/25/2000	Hidchiko Kando	29284/504	6130

7590 09/02/2004

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/578,387	Applicant(s) KANDO ET AL.	
	Examiner Aristotelis M Psitos	Art Unit 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/8/04 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

1. Claims 5, 9 & 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 & 10 are drawn to method and apparatus for reproducing; however, the ultimate paragraph in both independent claims recite a function that does not clearly flow/follow from the previous recited limitations, that is, there is no pre-recorded information of control data of the record medium ever detect/sensed. Hence this function isn't complete. The examiner strongly recommends appropriate correction by providing such detection/sensing.

Claim 5 is drawn to a recording apparatus suffering the same problem as identified above with respect to claims 9 and 10.

AS FAR AS THE CLAIMS RECITE POSITIVE LIMITATIONS the following rejections are made.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1,5,9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0969452 further considered with EP 0800276.

With respect to apparatus claim 10 the following analysis is made:

Claim 10	Asano (EP 0969452)
An information reproducing apparatus	see description in paragraph 57 (cover sheet)
An energy beam generator	inherent in the optical head
Power adjustment mechanism	present through feedback loop to element 230
Holding mechanism	inherent – platter that the disc lays on
Moving mechanism	inherently present – else the information on the Record would not be reproduced.
Detector	inherent/else no reproduction
Clock generation circuit	elements 130/150
Frequency changer circuit	see discussion of pll & 170

Although the above noted elements 150/170 do not depict clearly that a frequency is converted by multiplication process, rather the delay circuit appropriately delays the signals accordingly.

EP 800276 teaches in this environment – see the description commencing at col. 1 line 1 and continuing to col. 3 line 48, that through appropriate multiplication process incoming signals are delayed accordingly.

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It would have been obvious to modify the base system of Asano (EP '452) with the above teaching from EP '276, motivation is to use established alternative circuitry as the delay circuitry in Asano, the examiner considers such as alternative equivalents and selection of one over the other is merely a substitution between equivalent circuitry predicated upon cost/time/availability

Method claim 9 is analogous to the above apparatus claim and is met when the above references operate.

With respect to apparatus claim 5, this claim is drawn to information recording apparatus and includes a recording clock formation circuit in addition to all the other elements already defined by claim 10.

In Asano (EP '452), the system is also described as a recorder – see title for instance. With respect to the additional clock the examiner interprets such as being the output of the wobble detector/pll circuit. – See the description with respect to figure 1 starting at col. 6 paragraph 21 and continuing till paragraph 36 in col. 8.

With respect to method claim 1, this is a method claim which calls for the detection of pre-recorded information of control data as well as the ability of detecting the clock signal (see the wobble detection/pll combination discuss), the convention multiplication setting ability – see the combination of references using the secondary teaching from EP 800276, and the final formation step which inherently is present else the system would not record. The pre-recorded information of control data is interpreted by the examiner as being met by the fine clock signals.

3. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of the present state of DVD-RAM formatting.

Applicant has acknowledged such formatting as existing, and the appropriate buffer regions before and after the data regions are known. As the zonal factor varies, increase, since the linear data density is kept constant, the buffer area size increases as recited.

The examiner interprets claim 4 to mean that as the buffer size area diminishes in size, there is information recorded therein.

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Conclusion

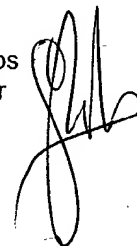
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kuroda et al is cited of importance. That is the examiner concludes that this reference can also be used in place of the EP document to Asano – see the operation of element 63, and 66 as further discussed in col. 17 lines 21-43.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos
Primary Examiner
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AMP